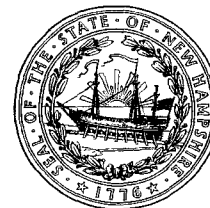




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

July 25, 2005

CERTIFIED MAIL
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RETURN RECEIPT REQUESTED

LETTER OF DEFICIENCY
No. WMD 05-017

Town of Warner
P.O. Box 265
Warner, NH 03278

Attn: Wayne Eigabroadt, Chairman, Warner Board of Selectmen

Re: Warner Transfer Station
1888 Route 103 West
Warner, New Hampshire
EPA ID # NHD510178064

Dear Chairman Eigabroadt

On April 22, 2005, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of the Warner Transfer Station ("Transfer Station") in Warner, NH, as a follow up to the December 23, 2004 site visit. The purpose of the inspection was to determine the Transfer Station's compliance status relative to RSA Ch. 147-A and the New Hampshire Hazardous Waste Rules, Env-Wm 100-1100.

As a result of the inspection, the following deficiencies in your hazardous waste management program were documented:

1. Env-Wm 502.01 – Hazardous Waste Determination

At the time of the inspection, no formal hazardous waste determination had been performed on numerous containers of waste material stored at the Transfer Station, including seven (7) containers of unknown chemicals and four (4) pallets of 5-gallon containers.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

DES requests that the Transfer Station develop a procedure to ensure that a complete hazardous waste determination is performed on waste material when it is generated. The procedure should provide a method for distinguishing waste chemicals from useable products. Waste determinations should be performed by a person who is trained and

knowledgeable in the evaluation of chemical hazards and who is thoroughly familiar with the Hazardous Waste Rules, including but not limited to proper waste handling and emergency procedures.

When claiming that materials collected at the Transfer Station are not wastes, documentation as required by Env-Wm 803.05, must be maintained to indicate that the material is actually being recycled. The Transfer Station may document the recycling of accepted material by maintaining a log of items, taken from the Transfer Station, for continued use by residents. The log should at least include the type and quantity of material taken, the name, address, and telephone number of the resident who is going to use the material and the date the material is taken.

Please be aware that the Department of Agriculture, Division of Pesticide Control ("DPC") enforces state pesticide laws affecting sale, storage and application of all registered pesticides, examining and licensing pesticide dealers and users, and registering all economic poisons sold and used within the state. The DPC maintains a list of prohibited and limited use compounds, which can be found in the DPC administrative rules, Chapter Pes-700; these pesticides should be managed as a waste if accepted by the Transfer Station. In addition, the DPC prohibits in RSA Ch. 430:41, the distribution of any pesticide unless it is in an unbroken (unopened) container, has an intact, legible, product label, and the pesticide is registered pursuant to the provisions of RSA Ch. 430:36; pesticides not meeting these criteria must be managed as a waste if accepted by the Transfer Station. Please contact Wendy Chapley, Director, Division of Pesticide Control, at (603) 271-3550 for additional information.

2. Env-Wm 504.01 and 504.02(e) - Generator Notification Requirements

At the time of the inspection, DES confirmed that the Transfer Station is accepting household hazardous waste from residents and has not notified as a hazardous waste generator; the Transfer Station is notified as a used oil burner only.

Env-Wm 401.03(b)(1) exempts household hazardous waste from regulation under the hazardous waste rules, except that household hazardous wastes accumulated at a solid waste facility regulated under RSA 149-M must be managed in accordance with Env-Wm 500, Requirements for Hazardous Waste Generators. Env-Wm 504.01(a) requires that a generator shall notify DES prior to conducting any hazardous waste activities covered under the Hazardous Waste Rules.

DES requests that the Transfer Station complete and submit the enclosed Hazardous Waste Activity Notification Form to DES, as specified in Env-Wm 504.01. For your convenience, instructions on completing the form have also been enclosed. If you have any questions regarding the form, please call the DES Reporting Information Management Section at 271-2921.

Please be aware that generators of hazardous waste must adhere to the generator standards of Env-Wm 500. Small Quantity Generators must follow the requirements of Env-Wm 508, including the extended storage requirements of Env-Wm 508.03, when

more than 220 pounds are accumulated on-site. Full Quantity Generators must follow the requirements of Env-Wm 509.

Additionally, solid waste facilities are not authorized under the New Hampshire Hazardous Waste Rules to accept hazardous waste from a generator (business) except at a one day household hazardous waste collection event, where the hazardous waste is given directly to a New Hampshire registered hazardous waste transporter, as specified in Env-Wm 511.01 (f)(2).

3. Env-Wm 506.01(a) - Environmental and Health Requirements

At the time of the inspection, the Transfer Station's household hazardous waste collection plan included accepting unknown chemicals; the unknown chemicals were stored in a collection tub in close proximity to public access areas. DES personnel were able to ascertain the contents of three (3) of the containers, including two incompatible chemicals: 1) a 1-pint metal can of ignitable soot destroyer, and 2) a four-pound plastic container of chlorinating powder (oxidizer). Numerous other containers of chemicals collected from households are accumulated in areas that are accessible to the general public while awaiting waste determinations. The collection and storage of unknown chemicals, including incompatible chemicals, and the storage of chemicals awaiting waste determinations, in areas accessible to the general public, poses a hazard to human health and the environment.

Env-Wm 506.01(a) requires the generator not to use storage practices that pose a hazard to human health or the environment while accumulating hazardous wastes.

DES requests that the Transfer Station develop a plan for accumulating hazardous chemicals that does not pose a threat to the general public or Transfer Station employees. The plan should limit access to accumulation and evaluation areas, and include a method for evaluating the hazards of collected chemicals, including unknowns, in a timely and safe manner.

4. Env-Wm 507.01(a)(3) – Storage Requirements

At the time of the inspection, one (1) 55-gallon container of hazardous waste paint stored at the Transfer Station was not closed. See the attached Hazardous Waste Container Inventory ("Inventory").

Env-Wm 507.01(a)(3) requires generators to ensure that containers storing hazardous waste be closed at all times, except when waste is being added to or removed from the containers. In order to be considered closed the lid to the container must be secured with a drum ring or similar device.

DES requests the Transfer Station to ensure that containers storing hazardous waste remain closed at all times, except when adding waste to or removing waste from the containers.

DES believes the cited deficiencies can be corrected and a report describing the corrective measures taken by the Transfer Station can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In addition to submitting the requested written report, please contact DES to schedule a meeting to discuss the Hazardous Waste Rules and their application to the Transfer Station. To schedule the meeting contact the lead inspector, Robert Bishop, at 271-2383.

In the event compliance is not achieved within this period, DES may take further action against the Transfer Station including issuing an order requiring that the deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may re-inspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during this or subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Robert Bishop, Waste Management Specialist
DES/WMD
P.O. Box 95
Concord, NH 03302-0095

Enclosed you will find a copy of the completed Hazardous Waste Generator Inspection Report which documents the compliance status of your facility at the time of the inspection. This report may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

The State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline

includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at (1-866) HAZ-WAST (in-state only) or (603) 271-2942.

Should you have any questions regarding this letter, please contact Robert Bishop, or Tod Leedberg of the Hazardous Waste Compliance Bureau at 271-2942. DES appreciates the interest that the Selectmen have taken in improving the household hazardous waste operations at the Transfer Station and we acknowledge the efforts taken by Mr. Fouliard, including attending DES's Household Hazardous Waste Solid Waste Operators Training program. Thank you for your continued cooperation.

Sincerely,

 **COPY**

John J. Duclos, Administrator
Hazardous Waste Compliance Bureau
Waste Management Division

cc: DB/RCRA/LOD/Archives
Anthony P. Giunta, P.G., Director, WMD
Paul L. Heirtzler, P.E., Esq., Administrator, Waste Management Programs, WMD
Gretchen Hamel, Administrator, DES Legal Unit
Paul Fouliard, Warner Transfer Station Operator, Town of Warner, P.O. Box 265, Warner, NH 03278
Wendy Chapley, Director, Division of Pesticide Control, New Hampshire Department of Agriculture, Markets & Food, PO Box 2042, Concord, NH 03302

E-mail: JJD/SD

Enclosure: Hazardous Waste Generator Inspection Report